

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

RUSSELL SCOTT FARIA, )  
Plaintiff, )  
vs. ) Case No. 4:16-CV-01175-JAR  
SERGEANT RYAN J. )  
McCARRICK, et al., )  
Defendants. )

DEPOSITION OF LEAH DAY

Taken on behalf of the Plaintiff

March 19, 2018

Reported by: Christine A. LePage, CCR #1000

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McCARRICK, et al., )  
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COPY

DEPOSITION OF LEAH DAY, taken on behalf of the  
Plaintiff, on the 19th day of March, 2018, between the  
hours of eight o'clock in the forenoon and six o'clock  
in the afternoon of that day, at the Law Offices of  
W. Bevis Schock, 7777 Bonhomme Avenue, Suite 1300,  
St. Louis County, before Christine A. LePage, a  
Registered Professional Reporter, Certified Court  
Reporter, and Notary Public.

A P P E A R A N C E S

The Plaintiff was represented by W. Bevis  
Schock, Esq., 7777 Bonhomme Avenue, Suite 1300, St.  
Louis, Missouri 63105.

The Witness was represented by Timothy J.  
Gallagher, Esq., of the law firm of Gallagher Davis,  
LLP, 2333 South Hanley Road, St. Louis, Missouri 63144.

The Defendants McCARRICK, MERKEL, and HARNEY  
were represented by Jason S. Retter, Esq., of the law  
firm of King, Krehbiel & Hellmich, LLC, 2000 South  
Hanley Road, St. Louis, Missouri 63144.

The Defendant MERKEL was represented by J.C.  
Pleban, Esq., of the law firm of Pleban & Petruska Law,  
LLC, 2010 South Big Bend Boulevard, St. Louis, Missouri  
63117.

The Defendant ASKEY was represented  
telephonically by Christopher L. Heigels, Esq., of the  
Law Offices of Coronado Katz, LLC, 14 West Third  
Street, Suite 200, Kansas City, Missouri 64105.

The Defendant LINCOLN COUNTY was represented  
by Joel D. Brett, Esq., of the law firm of Barklage,  
Brett & Hamill, P.C., 211 North Third Street,  
St. Charles, Missouri 63301.

Also present was Mariah Day.

I N D E X

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Exhibit  
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LEAH DAY,  
of lawful age, having been first duly sworn to testify  
the truth, the whole truth, and nothing but the truth,  
deposes and says on behalf of the Plaintiff as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SCHOCK:

Q Ma'am, would you please state your full name?

A Leah Elizabeth Day.

Q Ms. Day, as you know, I'm Bevis Schock, and I  
represent your stepfather, Russ Faria, in a lawsuit,  
and do you understand that you're here to give your  
testimony in that lawsuit?

A Yes.

Q And as I said to your sister, I want you to  
know that I'm sympathetic to what happened to you and  
your family, and you've been involved in legal matters  
for years as a result, and this has got to be the most  
horrible thing to go through, and I promise I'm going  
to, as I tried to do with your sister, keep it short,  
get to the point, and move along; is that okay?

A Yes.

Q Okay. It's our custom to announce our  
appearances.

MR. GALLAGHER: I'm Tim Gallagher, I'm here

for the witness.

MR. RETTER: Jason Retter for defendants  
Merkel, McCarrick, and Harney.

MR. PLEBAN: J.C. Pleban for Merkel.

MR. BRETT: Joel Brett for Defendant Lincoln  
County.

MR. HEIGELE: Chris Heigels on behalf of  
Prosecutor Askey.

Q (by Mr. Schock) And, ma'am, I know what I  
said about the sympathy of every attorney in the room  
feels the same way, and that goes for you, too,  
Ms. Mariah Day. Okay. A couple questions about who  
you are. Are you working now?

A Yes, I'm a massage therapist and I'm a  
server. At Massage -- I'm a massage therapist at  
Massage Envy, and I work at First Watch and Lucha's  
with my sister.

Q Let's talk a little bit about -- Your family  
had some bickering?

A Yes.

Q Before your mother's death, right?

A Yes.

Q And I want to know, did you talk to law  
enforcement about that bickering that you remember?

A Yes.

Q Can you tell me what you told them?

A I don't remember everything, but, I mean, our  
family had some problems, and my mom and I, we had  
arguments, Russ and I didn't get along, and -- we did,  
but we didn't, so we had our ups and downs. Yeah. I  
don't know any specifics, I don't remember specifics,  
but that's about overall.

Q Okay. That's fine. Let me talk to you about  
the insurance money. Now, you became aware a couple of  
days after your mother's death that Pam Hupp was the  
beneficiary of an insurance policy; is that right?

A Yes.

Q Life insurance?

A Yes.

Q And do you remember talking to law  
enforcement at all about that subject?

A I don't remember exactly, but we talked to  
them as a family.

Q All right. Do you remember talking to law  
enforcement in the first few days after your mother's  
death about trying to build a timeline of events?

A For myself or --

Q For yourself and for Russ, for your mother,  
for Pam Hupp maybe?

A I don't know. I'm not sure I understand the

question.

Q Let me explain what I mean by timeline.

A Sorry.

Q When there's an investigation of a situation  
like this, commonly law enforcement will try to figure  
out where each person was --

A Right.

Q -- at different times.

A Okay. Yeah, they did that for Russ, like  
they were on it, to a T.

Q Okay. And, in fact, they talked to you about  
whether you might have murdered your mother, right?

A Oh, yes.

Q And Devin, your boyfriend?

A Yes. We were in the office with some  
detectives for about two -- two, three hours, I think  
that was in Lake St. Louis, yeah.

Q Did you get a sense that they thought you had  
maybe murdered your mother?

A Yes, because the church, Morning Star Church,  
I believe someone from that church said something that  
it could have been me, so they pointed fingers and  
started asking me questions and -- Yeah.

Q And do you feel at the end of that session  
with those law enforcement officers that they still

1 considered you a suspect?  
 2 A I don't think so, but I'm not too sure.  
 3 Q You explained to them where you'd been and --  
 4 A Yeah.  
 5 Q -- Morgan came to spend the night, and  
 6 Morgan's your friend, right?  
 7 A Yeah, she passed away two years ago.  
 8 Q Oh, I didn't know that. I'm sorry to hear  
 9 that.  
 10 A That's okay.  
 11 Q But your whereabouts all that day and evening  
 12 were established?  
 13 A Yes. Yes.  
 14 Q I want to talk to you about these phone  
 15 calls.  
 16 A Uh-huh.  
 17 Q You called your mother about ten after 7 on  
 18 the 27th of December 2011, correct?  
 19 A Yeah. Yes.  
 20 Q And I'm just kind of stating these things  
 21 quickly because it's background.  
 22 A Yeah.  
 23 Q And you got her, right?  
 24 A Yes.  
 25 Q And what did you tell her about answering the

9

1 phone?  
 2 A I asked her to make sure she answers, because  
 3 my Aunt Julie and I were going up to the phone store to  
 4 get me a new phone, and she said she's going to answer,  
 5 she's going to have her phone next to her, she's just  
 6 going to be laying there on the couch. And I tried  
 7 calling her maybe like 15, 20 minutes, maybe 30  
 8 minutes, I don't know the time frame exactly, later,  
 9 and she didn't answer. I tried her about three, maybe  
 10 four times, I'm not sure how many times exactly, but,  
 11 yeah.  
 12 Q Did you ever tell law enforcement that  
 13 sometimes your mother didn't answer phone calls from  
 14 you?  
 15 A Yes, I did.  
 16 Q Do you remember whether they inquired as to  
 17 whether your mother didn't answer phone calls when  
 18 she'd agreed a few minutes earlier to answer the phone  
 19 call?  
 20 A Um --  
 21 MR. GALLAGHER: Did you catch that?  
 22 A Kind of.  
 23 Q (by Mr. Schock) Let me ask the question  
 24 again.  
 25 A Okay.

10

1 Q Sure. So there's kind of this -- You told  
 2 law enforcement in a general sense that sometimes your  
 3 mother didn't answer your phone?  
 4 A Correct.  
 5 Q And that's true, right?  
 6 A Yes.  
 7 Q And then now this time you had specifically  
 8 asked her --  
 9 A Right.  
 10 Q -- to answer?  
 11 A (Witness nods.)  
 12 Q Had there ever been a circumstance in the  
 13 past when you had specifically asked her, "Hey, mom,  
 14 please answer my phone," and then she hadn't answered?  
 15 A No.  
 16 Q Did law enforcement ask you about that? It's  
 17 a slightly different question than whether she  
 18 always --  
 19 A Not that I recall, but they might have, I  
 20 just -- I don't remember. I don't remember.  
 21 Q That's fine. Did you express anything to law  
 22 enforcement about what your thoughts were that night,  
 23 what they had been, when your mother didn't answer  
 24 those three times?  
 25 A I mean, at the time I was just thinking she

11

1 fell asleep because I knew she was sick, and so those  
 2 were my thoughts at the time running through my head,  
 3 so, yeah, it didn't really occur to me.  
 4 Q Okay. I understand. You gave law  
 5 enforcement the -- you signed some piece of paper so  
 6 they could look at your phone, right?  
 7 A Yes.  
 8 Q And you had no problem doing that?  
 9 A Right.  
 10 Q Did you talk to law enforcement at all about  
 11 that necklace that Pam Hupp brought to your  
 12 grandmother?  
 13 A Me? No, I don't think so.  
 14 Q Were you involved at all in this \$10,000  
 15 moving over from one account to the other on the 4th of  
 16 January?  
 17 A I was there, but, I mean, I was just there.  
 18 Q Do you remember any conversations with the  
 19 teller?  
 20 A No.  
 21 Q Do you know who went in to get the teller?  
 22 A Probably my Aunt Julie.  
 23 Q Do you know why she went in to get the  
 24 teller, what the problem was?  
 25 A To -- I don't know. I have no idea.

12

1 Q Okay. Thanks. Have you had any  
2 conversations with Pam Hupp since your mother died?  
3 A No.  
4 Q Did you have contact with Leah Askey, who's  
5 now Leah Askey Chaney, you overheard that --  
6 A Uh-huh.  
7 Q -- about whether to continue the prosecution  
8 of Russ or whether to give it up? Did you ever have  
9 any conversation like that with her?  
10 A Me specifically, no.  
11 Q Are you aware of anybody else in your family  
12 having such a conversation?  
13 A I don't know. I don't remember.  
14 Q Did anybody in law enforcement ever try to  
15 coerce you to say anything or do anything in connection  
16 with the prosecution of Russ?  
17 MR. RETTER: Objection, calls for  
18 speculation.  
19 A Like --  
20 Q (by Mr. Schock) Like tell you, for example,  
21 to hold off filing your lawsuit against Pam over the  
22 insurance money?  
23 A Yes.  
24 Q Tell me about that.  
25 A Like what my sister said, Ryan McCarrick

13

1 would tell us to hold off, and he would really force us  
2 to hold off.  
3 Q What reason did he give for that?  
4 A I don't remember.  
5 Q Did he say it was because it would make the  
6 case against Russ stronger if you held off?  
7 MR. RETTER: Objection, foundation.  
8 A Maybe.  
9 Q (by Mr. Schock) Did he say words to the  
10 effect of, "If you file it now it will hurt the  
11 prosecution"?  
12 MR. RETTER: Objection, foundation.  
13 A I do remember hearing those words.  
14 Q (by Mr. Schock) He said that to you?  
15 A Either him or Leah Askey did.  
16 Q Can you try to separate in your mind who it  
17 was?  
18 A I don't know, because we would all be  
19 together and --  
20 Q Oh, everybody would be in the room together?  
21 A Yeah.  
22 Q Both Mr. McCarrick and Ms. Askey?  
23 A Yes.  
24 Q So one or the other of them said it?  
25 A Right.

14

1 Q You just don't remember which one?  
2 A Exactly.  
3 Q Was that before the first trial?  
4 A Probably -- I don't remember if it was before  
5 the first or after -- before the second, in between  
6 or -- it was probably that whole time frame.  
7 Q All right. Did anybody ever threaten to  
8 subpoena you to come to testify at trial?  
9 A Yes.  
10 Q Tell me about that.  
11 A It was about a week before the second trial,  
12 I was having doubts. My whole entire --  
13 Q Hang on one second. What do you mean doubts?  
14 A Well, because Pam Hupp was not in the first  
15 trial, so that already -- like after the first trial I  
16 was already having doubts, and just because this whole  
17 money situation, that made me have more doubts, so it  
18 was --  
19 Q When you say doubts, do you mean doubts that  
20 Russ had killed your mother?  
21 A Yes. Yes. So we would -- We were all  
22 sitting in the room together going over the second  
23 trial.  
24 Q Now, one second. When you say "all," "we  
25 were sitting," tell me who you mean was in the room.

15

1 A Ryan McCarrick, Leah Askey, my entire family,  
2 all my three aunts, me and my sister, my grandma and  
3 grandpa, and I'm pretty sure there was some more people  
4 from the prosecuting attorney's side, so I was letting  
5 them know that I wasn't feeling this and I didn't want  
6 to go up on the stand saying the things that they  
7 wanted me to say, and because I said that, Leah came at  
8 me and she said, "Well, I'm going to have to subpoena  
9 you and you're not going to like it."  
10 And then she told us about how Russ has been  
11 on the phone with family and friends calling my sister  
12 and I the "C" word, and just saying that he's going to  
13 take everything back from us or whatever. We asked her  
14 if we could hear those or see the letters, she said  
15 yes, but we never saw them before the second trial.  
16 Q Did you feel threatened by what she said?  
17 A Yes.  
18 Q Did you -- Would you say that you testified  
19 against your will because of what she said?  
20 MR. HEIGLE: Argumentative. Calls for  
21 speculation.  
22 A No. No.  
23 Q (by Mr. Schock) So how --  
24 MR. GALLAGHER: Did you understand what he  
25 meant by testify against your will?

16

1 THE WITNESS: Kind of, like --  
 2 MR. GALLAGHER: Why don't you just clarify?  
 3 Q (by Mr. Schook) Yeah, let me clarify that.  
 4 A Okay.  
 5 Q In other words, you might say that in the  
 6 world -- if you're going to testify in court, you can  
 7 be super eager, you can be super reluctant.  
 8 A Yeah.  
 9 Q There could be a middle place where you don't  
 10 really know.  
 11 A I was super reluctant.  
 12 Q You were super reluctant?  
 13 A Yes. Yes. And I even told her that while we  
 14 were in that meeting that I'm going up on that stand  
 15 and all I'm saying is I'm a girl who has daddy issues,  
 16 and I did, and I regretted it.  
 17 Q What do you mean by that?  
 18 A Because I just made myself look stupid, I  
 19 feel like, and looking back on it, I regret it.  
 20 Q And I understand. When Ms. Askey made the  
 21 statements that she was -- that you wouldn't like it,  
 22 was that what she said?  
 23 A Yes.  
 24 Q Did she state to you what would happen, or  
 25 what you wouldn't like, in other words?

17

1 A I mean, I knew what she was talking about,  
 2 so --  
 3 Q What did you think she meant?  
 4 A That she would have to subpoena me to be on  
 5 the stand and she would have to force things out of me  
 6 what she wants me to say, and I didn't want to go that  
 7 route, so I just did what she wanted me to do.  
 8 Q Okay. Did Mr. McCarrick, Mr. Merkel, or  
 9 Mr. Harney ever coerce you in any way to do anything in  
 10 connection with the prosecution of Russ Faria?  
 11 MR. RETTER: Objection, calls for  
 12 speculation.  
 13 A Not that I remember.  
 14 Q (by Mr. Schook) Do you remember telling law  
 15 enforcement anything about the jewelry chest?  
 16 A I don't remember.  
 17 Q There's this issue with Russ getting into a  
 18 squabble with Devin, your boyfriend, right?  
 19 A Yes.  
 20 Q Did you -- Do you remember what you told law  
 21 enforcement about whether Russ had ever, first, laid  
 22 hands on Devin, or, second, touched his car either with  
 23 his own hands or with something else?  
 24 A No, he's never laid hands on him, he did not  
 25 have a baseball bat, that was my aunt's story, I don't

18

1 know where she got that from.  
 2 Q You were there?  
 3 A Yeah, I was there, my sister was there, too.  
 4 He was on the phone with one of his friends and --  
 5 Q Who is he?  
 6 A Russ was on the phone with one of his friends  
 7 at the time, and I think it was a moment where he was  
 8 trying to be all big and bad, and I was bringing Devin  
 9 over to meet my parents, and I guess he didn't like --  
 10 Russ didn't like Devin, because Devin was over at our  
 11 house when they were not home, so I understand that, so  
 12 Russ got mad and chased Devin out of the house, Devin  
 13 got into his car, and Russ was beating on his window,  
 14 and we just left.  
 15 Q What was he beating on the window with?  
 16 A Just his fist.  
 17 Q Okay. Did he break the window?  
 18 A No. He wasn't beating that hard.  
 19 Q He was obviously --  
 20 A He was just trying to scare him.  
 21 Q Okay. Do you remember your mom working with  
 22 computers, by sending e-mails, having a computer?  
 23 A Yes.  
 24 Q Now, Russ was a professional person with  
 25 computers, right?

19

1 A Yes.  
 2 Q Did you ever talk to law enforcement about  
 3 your mother's skill level with computers?  
 4 A I don't remember.  
 5 Q I want to talk to you a little bit about your  
 6 trip to Branson, that's the last thing. You were on  
 7 the trip to Branson; is that right?  
 8 A I don't think so.  
 9 Q Okay. All right.  
 10 A I don't remember a trip to Branson.  
 11 Q Okay. Those are all my questions.  
 12 A Okay.  
 13 Q Thank you.  
 14  
 15 CROSS-EXAMINATION  
 16 QUESTIONS BY MR. RETTER:  
 17 Q Hello, Ms. Day, my name's Jason Retter, just  
 18 a couple of questions, if you'll allow me.  
 19 A Uh-huh.  
 20 Q In the second trial when you were super  
 21 reluctant to testify, and, correct, do I have the right  
 22 trial?  
 23 A Yes.  
 24 Q You nevertheless, I presume, told the truth  
 25 on the stand, correct?

20

1 A I didn't tell the truth?  
 2 Q No, you did, correct?  
 3 A No, I did tell the truth, yes.  
 4 Q I assumed as much. And you did, correct?  
 5 A Yeah.  
 6 Q You didn't lie under oath at the trial?  
 7 A Correct.  
 8 Q And although you were threatened with a  
 9 potential subpoena to get you there, did anyone from  
 10 law enforcement ever ask you to lie on the stand?  
 11 A No.  
 12 Q Or to not tell the truth on the stand?  
 13 A No.  
 14 Q I hopscotch around. The first attorney gets  
 15 the -- always has the luxury of going from an outline  
 16 and proceeding in some order, the rest of us sort of  
 17 are just asking questions that pop in our heads as we  
 18 listen to your prior testimony, so if you don't  
 19 understand the context or if I jump around, will you  
 20 let me know?  
 21 A Yes.  
 22 Q Talking about the time that Russ chased you  
 23 and -- presumably you and Devin out of the house, it  
 24 sounds like you got in the car as well?  
 25 A Yes.

21

1 Q And you said that Russ was beating on the car  
 2 windows as you were in the driveway, I presume?  
 3 A Yes.  
 4 Q Which side, the passenger or driver's side,  
 5 was Russ hitting the window?  
 6 A The driver's side.  
 7 Q Do you know if Devin was scared at that  
 8 moment?  
 9 A No.  
 10 Q Were you?  
 11 A Yes.  
 12 Q How come?  
 13 A Just because I wanted them to get along and  
 14 he was mad and it was -- I mean, yeah.  
 15 Q And I assume the last thing you expected when  
 16 you brought Devin over to meet your parents was that it  
 17 would wind up with Russ beating on his car window as  
 18 the two of you left, right?  
 19 A Right.  
 20 Q You and Mr. Schock also talked some about  
 21 what Bevis called bickering, I think, in your family,  
 22 correct?  
 23 A Yes.  
 24 Q Is it my understanding -- Is my understanding  
 25 correct that there were sometimes maybe bickering but

22

1 also sometimes what I might think of as fights or  
 2 arguments; is that correct?  
 3 A Yes.  
 4 Q Did your mom and Russ ever have fights or  
 5 arguments in your presence?  
 6 A Yes.  
 7 Q What, if anything, if you can sort of  
 8 summarize, or if it was just one thing, what were those  
 9 fights typically about?  
 10 A Money, me, that's --  
 11 Q Were there certain periods --  
 12 A All I can think of.  
 13 Q I'm sorry.  
 14 A That's all I can think of is me.  
 15 Q Were there certain periods in your life with  
 16 your mom and Russ where these fights or arguments, you  
 17 know, were more frequent or less frequent, or were they  
 18 fairly -- were they constant throughout the  
 19 relationship as far as you could tell?  
 20 A I think like whenever they were really up and  
 21 happy it was good, but whenever they were in their  
 22 downs it was really bad.  
 23 Q All right. And really bad because they'd  
 24 fight?  
 25 A Yeah, and moving away from each other and

23

1 then they'll come back to each other, and --  
 2 Q Do you know if Russ ever, you know, laid  
 3 hands or was physically violent with your mother at any  
 4 point in time?  
 5 A No.  
 6 Q You never saw that?  
 7 A No.  
 8 Q Did you ever talk to your mom about these  
 9 fights with Russ?  
 10 A No.  
 11 Q Did Russ ever use what I'd call foul or bad  
 12 or horrible language towards your mother during these  
 13 fights?  
 14 A Maybe. I don't remember.  
 15 Q How about --  
 16 A Nothing that I can recall.  
 17 Q There's been some testimony that in -- I  
 18 don't know if it was a fight, an argument, and I'm  
 19 afraid I don't remember all of it, there's been some  
 20 testimony in this case already from other witnesses,  
 21 Ms. Day, that Russ at some point in time used --  
 22 referred to maybe you and your sister as the "C" word,  
 23 or cunt, if I -- just for the record; is that true?  
 24 A Yes.  
 25 Q And do you remember when that was, or how

24



1 many times was that?  
 2 A Once that I remember, and it was towards me  
 3 and my cousin.  
 4 Q And what was that about?  
 5 A We snuck out and he was mad.  
 6 Q Do you know if Russ was ever physically  
 7 violent towards your sister?  
 8 A No.  
 9 Q How about to yourself?  
 10 A He spanked me.  
 11 Q How old were you when that happened?  
 12 A Like 10, 11, 12.  
 13 Q I don't think I have any other questions.  
 14 Thank you.  
 15 A Okay.

## CROSS-EXAMINATION

18 QUESTIONS BY MR. FLEBAN:  
 19 Q This incident with -- what is your  
 20 boyfriend's name, Devin?  
 21 A Ex, yeah.  
 22 Q Or ex-boyfriend's name, Devin.  
 23 A Yeah.  
 24 Q They were actually running, right, and  
 25 chasing -- Russ was chasing Devin?

25

1 A As I remember,  
 2 Q I'm sure that there was --  
 3 A Yeah.  
 4 Q -- he was yelling at Devin?  
 5 A Yeah.  
 6 Q Screaming probably?  
 7 A Yes.  
 8 Q You heard the yelling and screaming, correct?  
 9 A Yes.  
 10 Q Seemed like an aggressive tone to you?  
 11 A Yes.  
 12 Q Remember anything specifically that he was  
 13 saying to Devin, that Russ was saying to Devin?  
 14 A Not specifics, but -- I don't remember  
 15 specifics.  
 16 Q Did Russ ever chase anybody else out of the  
 17 house that you recall?  
 18 A Me.  
 19 Q He's chased you out of the house?  
 20 A He's chased me up the street.  
 21 Q Running?  
 22 A Yeah, just because I'm a brat and he was just  
 23 trying to spank me or punish me or something, or me in  
 24 my room or --  
 25 Q There were times in the past that Russ would

26

1 run out of the house and chase you trying to hit you in  
 2 some way, shape, or form, right?  
 3 MR. GALLAGHER: I --  
 4 A I mean, yeah, a whooping, kid whooping.  
 5 Q (by Mr. Fleban) That Russ was whipping kids,  
 6 I think is what you were saying, right?  
 7 A No, no, that's not what I'm saying.  
 8 Q What was the --  
 9 MR. SCHOCK: Nice try, J.C.  
 10 Q (by Mr. Fleban) There's an incident --  
 11 MR. GALLAGHER: I think the witness said  
 12 whooping.  
 13 MR. FLEBAN: Whooping.  
 14 MR. GALLAGHER: You didn't hear it, it was  
 15 whooping.  
 16 Q (by Mr. Fleban) Whooping kids. There was an  
 17 incident or multiple incidents where he choked the dog  
 18 or something; do you recall those?  
 19 A I remember one time where our dog ran away,  
 20 and he picked him up by its neck and threw him outside  
 21 because he was really mad.  
 22 Q Physically threw the dog outside?  
 23 A Not like threw him far, but just tossed him  
 24 outside on its leash.  
 25 Q Nothing else.

27

1 MR. BRETT: No questions.  
 2 MR. SCHOCK: Chris?  
 3  
 4 CROSS-EXAMINATION  
 5 QUESTIONS BY MR. HEIGLE:  
 6 Q I just have a few. Miss Day, harking back, I  
 7 just want to make sure I heard your testimony  
 8 correctly, that even though Leah Askey suggested that  
 9 she would have to subpoena you for the second trial,  
 10 regardless of that fact, everything that you stated at  
 11 the second trial in testimony was the truth, correct?  
 12 A Yes.  
 13 Q And nobody, including any of the defendants  
 14 in this case, McCarrick, Merkel, or Hamey, or  
 15 Prosecutor Askey, asked you to say anything that was  
 16 untruthful; is that correct?  
 17 A Yes.  
 18 Q And at the second trial, and, again, at the  
 19 first trial before, you testified as to the horrible  
 20 names that Russ Faria called you and your sister and  
 21 your mother at various times, including the "C" word;  
 22 is that true?  
 23 A Ma, yes.  
 24 Q Okay. And, again, I'm sorry, as Jason Retter  
 25 had indicated, I'm looking at my notes, I don't have

28

1 the benefit of a nice clean outline as Bevis does.  
 2 Were you aware that your mother had several other life  
 3 insurance policies, not the insurance policies that you  
 4 had the dispute with Pamela Hupp, you understand that  
 5 she had other policies, true?  
 6 A I knew she had one other one.  
 7 Q Okay. Have you been provided any sort of  
 8 financial support or a portion of those life insurance  
 9 policies for your mother by Mr. Russ Faria?  
 10 A No.  
 11 Q Okay. I don't think I have any further  
 12 questions for you. Thank you for taking the time out  
 13 of your day.  
 14 A Thank you.  
 15 MR. SCHOCK: I don't have any further  
 16 questions. Anybody else have anything else?  
 17 MR. RETTER: Bevis, I just have a few  
 18 follow-up questions, if you'll let me.  
 19 MR. SCHOCK: Of course.  
 20  
 21 RE CROSS-EXAMINATION  
 22 QUESTIONS BY MR. RETTER:  
 23 Q Ms. Day, I'm back. Thank you. Do you know  
 24 whether your sister has been provided any financial --  
 25 has been provided any funds from any life insurance

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1 policy by Russell Faria?  
 2 A No.  
 3 Q Do you know for a fact that she has not?  
 4 A Yes.  
 5 Q Has Mr. Faria provided any other financial  
 6 support to you or your sister since your mother's  
 7 death?  
 8 A No.  
 9 Q When was the last time you spoke with  
 10 Mr. Faria?  
 11 A Actually spoke to him?  
 12 Q Uh-huh, by phone or in person, or perhaps I'd  
 13 open it up even to e-mail, text message, any  
 14 communication.  
 15 A I wrote him a letter while he was in prison.  
 16 Q Did he correspond back with you?  
 17 A I think once.  
 18 Q And was that in the form of a letter as well?  
 19 A Uh-huh. Yeah.  
 20 Q Have you talked to Mr. Faria about this  
 21 deposition in any way?  
 22 A No.  
 23 Q I don't have any other questions. Thank you.  
 24  
 25

30

1 RE CROSS-EXAMINATION  
 2 QUESTIONS BY MR. PLEBAN:  
 3 Q Have you spoken to his attorneys?  
 4 A Have I spoken to --  
 5 Q Russ Faria's attorneys?  
 6 A No.  
 7 Q Bevis? Joel Schwartz? Nathan Swanson?  
 8 A No. First time I met him. No.  
 9 MR. BRETT: Nothing.  
 10 MR. SCHOCK: Okay, ma'am, that concludes the  
 11 deposition.  
 12 MR. GALLAGHER: Yes, we're going to waive the  
 13 signature.  
 14 \*  
 15 \*  
 16 BY AGREEMENT OF COUNSEL AND WITH CONSENT OF THE WITNESS  
 17 THE SIGNATURE IS HEREBY WAIVED.  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

31

1 NOTARIAL CERTIFICATE  
 2  
 3 STATE OF MISSOURI )  
 4 ) SS  
 5 COUNTY OF ST. CHARLES )  
 6  
 7 I, CHRISTINE A. LePAGE, a Certified Court  
 8 Reporter and a duly commissioned Notary Public within  
 9 and for the State of Missouri, do hereby certify that  
 10 there came before me at the Law Offices of W. Bevis  
 11 Schock,  
 12  
 13 LEAH DAY,  
 14 who was by me first duly sworn to testify to the truth  
 15 and nothing but the truth of all knowledge touching and  
 16 concerning the matters in controversy in this cause;  
 17 that the witness was thereupon carefully examined under  
 18 oath and said examination was reduced to writing by me;  
 19 that the signature of the witness was expressly waived,  
 20 and that this deposition is a true and correct record  
 21 of the testimony given by the witness.  
 22 I further certify that I am neither attorney  
 23 nor counsel for, nor related nor employed by any of the  
 24 parties to the action in which this deposition is  
 25 taken; further, that I am not a relative or employee of  
 any attorney or counsel employed by the parties hereto  
 or financially interested in this action.  
 IN WITNESS WHEREOF, I have hereunto set my  
 hand and seal this 3rd day of April, 2018.  
 My Commission expires March 2, 2019.  
 \_\_\_\_\_  
 Notary Public

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